

REMARKS/ARGUMENTS

The sole claim is claim 6, which has been amended to incorporate the subject matter of claim 5. Accordingly, claim 5 has been canceled. Reconsideration is expressly requested.

In the Advisory Action dated November 30, 2009, the Examiner indicated that Applicant's Amendment After Final filed November 2, 2009 had overcome the rejections in the August 6, 2009 Final Office Action under 35 U.S.C. §112, second paragraph, and the objections to claim 1 on the basis of the use of the word "especially" and the use of the phrase "by which," and the Examiner entered Applicant's November 2, 2009 Amendment After Final; however, the Examiner maintained the rejection of the claims under 35 U.S.C. §103(a) set forth in the August 6, 2009 Final Office Action based on U.S. Patent No. 6,406,458 to Tillander, U.S. Patent No. 5,571,261 to Sancoff et al., and U.S. Patent No. 6,510,965. to Decottignies et al.

In the Examiner's view, the primary reference to Tillander has all the elements of claim 6, including a connection nipple 19

that constitutes a removable connection for connecting the *Tillander* device to a pressurized air source, and the secondary reference to *Sancoff et al.* teaches a pressurized air source in the form of a replaceable bag 120 that holds a tablet 119 that when introduced to citric acid 121 produces a gas that serves as a pressurized air source that can escape through the surrounding membrane 120. According to the Examiner, this portion of the *Sancoff et al.* device "is readily adaptable to the *Tillander* device to meet all the limitations of claim 5, including the desired portability and replaceability of the pressurized air source."

In response, Applicant has further amended claim 6 to incorporate the subject matter of claim 5 and respectfully traverses the Examiner's rejection for the following reasons.

Applicant's Amendment After Final filed November 2, 2009 set forth in detail the differences between Applicant's apparatus as set forth in claim 6 as amended and the primary reference to *Tillander*. For example, it is respectfully submitted

that *Tillander* does not comprise a carbonate formulation compressed into a tablet and does not comprise a gas pressure source that comprises an organic acid, which is connected with the pressure medium chamber by way of a plug-in coupling and a control valve and/or pressure reduction valve in interchangeable manner. Moreover, as explained in Applicant's Amendment After Final filed November 2, 2009, it is respectfully submitted that the secondary reference to *Sancoff et al.* does not disclose or suggest a replaceable gas pressure source and in any event, the gas pressure packet 120 of *Sancoff et al.* cannot be combined with the pressure infusion apparatus of *Tillander* without changing the principle of operation of the liquid delivery device of *Sancoff et al.*.

To further differentiate Applicant's apparatus, claim 6 has been amended to incorporate the subject matter of claim 5, thereby reciting that the first and second housing parts are joined to each other at one side in an articulated manner and comprise a latching device on the opposite side. In the August 6, 2009 Final Office Action, the Examiner recognized that neither *Tillander* nor *Sancoff et al.* discloses or suggests this feature.

Although the Examiner relied on the secondary reference to *Decottignies et al.* as showing this feature, it is respectfully submitted that the Examiner's position is unfounded.

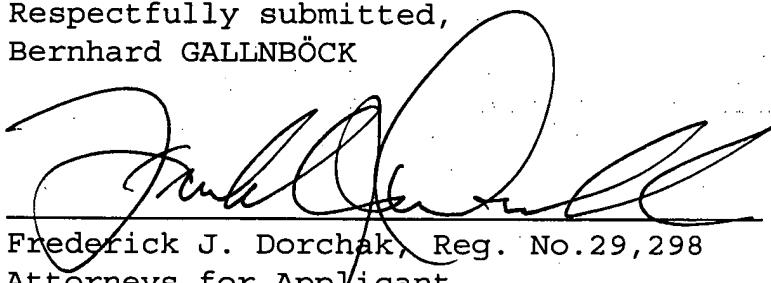
As discussed in Applicant's November 2, 2009 Amendment After Final, the *Decottignies et al.* device is of a different type than Applicant's apparatus as recited in claim 6, as amended, and merely discloses a metering device for fluids, not a device for the administration of infusion fluid. In addition, *Decottignies et al.* fails to disclose or suggest a replaceable gas pressure source. In fact, *Decottignies et al.* teaches away from the hypothetical combination of *Tillander*, *Sancoff et al.* and *Decottignies et al.* as the device of *Decottignies et al.* has a pump that is permanently snap-fastened to the other elements of the device housing. See *Decottignies et al.* at column 2, lines 33-38 and column 4, lines 39-41. A main purpose of the permanent fastening of the pump of the device of *Decottignies et al.* is to prevent tampering with the fluid in the product dispenser. See *Decottignies et al.* at column 2, lines 1-4.

Accordingly, it is respectfully submitted that one skilled in the art would not make the hypothetical combination suggested by the Examiner to arrive at Applicant's apparatus as set forth in claim 6 as amended herein, if for no other reason than the teaching away from that combination as set forth in *Decottignies et al.*

Accordingly, it is respectfully submitted that claim 6 as amended is non-obvious in view of the Examiner's hypothetical combination of *Tillander, Sancoff et al.* and *Decottignies et al.*

In summary, claim 5 has been canceled and claim 6 has been amended. In view of the foregoing, it is respectfully requested that the sole claim 6 be allowed and that this application be passed to issue.

Respectfully submitted,
Bernhard GALLNBÖCK



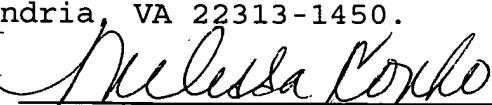
COLLARD & ROE, P.C.
1077 Northern Boulevard
Roslyn, New York 11576
(516) 365-9802

Frederick J. Dorchak, Reg. No. 29,298
Attorneys for Applicant

FJD:cmm

EXPRESS MAIL NO. EM 393 397 948 US
Date of Deposit: December 31, 2009

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10, on the date indicated above, and is addressed to the MAIL STOP RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



Melissa Konko

R:\Patents\GALLNBÖCK-1 PCTRCE\Preliminary Amendment in RCE.wpd